

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN WILLIAMS,

Petitioner,

No. CIV S-98-1816 FCD EFB P

vs.

ROBERT L. AYERS,

Respondent.

ORDER

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Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. This court denied the petition on August 8, 2005. Plaintiff appealed the decision to the Ninth Circuit Court of Appeals. On June 19, 2009, the Ninth Circuit remanded the case to this court for the limited purpose of granting or denying a certificate of appealability. On July 14, 2009, the undersigned denied a certificate of appealability. The Ninth Circuit denied petitioner's request for a certificate of appealability on December 7, 2009.

Petitioner filed a motion for Fed. R. Civ. P. 60 relief on March 19, 2010. On July 23, 2010, the undersigned denied the motion for Rule 60 relief. Petitioner appealed the decision to the Ninth Circuit. On December 14, 2010, the Ninth Circuit remanded the case to this court for the limited purpose of granting or denying a certificate of appealability.


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1 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has  
2 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The  
3 court must either issue a certificate of appealability indicating which issues satisfy the required  
4 showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

5 For the reasons set forth in the undersigned’s July 23, 2010 order, petitioner has not made  
6 a substantial showing of the denial of a constitutional right. Accordingly, a certificate of  
7 appealability should not issue in this action.

8 IT IS SO ORDERED.

9 Dated: February 10, 2011.

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12 FRANK C. DAMRELL, JR.  
13 UNITED STATES DISTRICT JUDGE  
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